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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/986,835	12/08/97	JURMAIN R	DT0005USP.01

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EXAMINER	
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ART UNIT	**PAPER NUMBER**
3712	11

DATE MAILED: 11/24/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 08/986,835	Applicant(s) Jurmain Et. Al.
	Examiner Michael Priddy	Group Art Unit 3712

☒ Responsive to communication(s) filed on *Oct 26, 1998* .

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-270* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) *261-267* is/are allowed.

☒ Claim(s) *47-69, 208-227, 236, 237, 240-256, 259, 260, 268, and 270* is/are rejected.

☒ Claim(s) *70, 228-235, and 269* is/are objected to.

☒ Claims *1-46, 71-207, 238, 239, 257, and 258* are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Response to Arguments

3.1

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., contiuous receipt of a satisfaction signal) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. *In re Van Guens*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

It may be true that the present invention operates in a manner different than that of the Nasco Inc. reference but the claim in question does not include language which defines this operation over the Nasco Inc. reference. The Nasco Inc. reference teaches a doll with a means for generating a perceptible demand signal, a means for arresting the demand signal when a satisfaction signal is received (control box), and a feedback system including the following: a means for generating a perceptible contented signal (coo/burp) and a means, in communication with the demand system and the contented signal, which initiates the generation of the contented signal after the satisfaction signal (coo/burp) has been received.

3.2

The examiner agrees with the argument that Nasco Inc. reference teaches away from an identification system in the statement cited: "Baby-sitting is a very realistic option within this simulation." Hence the rejection has been withdrawn.

4.0

The examiner agrees with the argument that the rejection which includes the statement "*Although Corris et. al. does not teach specifically a diaper with means for transmitting a diaper-changed signal to a soiled diaper [signal] arresting means, it would have been obvious... to apply the transmission means of Corris et. Al. In the form of any infant demand/satisfaction system onto the doll of Nasco International Inc. To have a diaper which when changed will arrest the complaint generating means.*" does not come to a conclusion consistant with the reasoning. The examiner also understands the lack of motivation indicated by the applicant.

5.1

The response is as noted in **3.1** above.

5.2

The response is as noted in **3.2** above.

5.3

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 19880; *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Schertz et. al. teaches an interactive neonatal resuscitation training simulator for training students in certain emergency care taking techniques. Since diaper-changing is a closely related care-taking task, necessary for the survival of a child, it would be of interest to one skilled in the art to combine some of the teachings of Schertz et. al. with those of Nasco Inc. so as to better encompass the wide range of techniques necessary for the car-taking of an infant.

5.4

The examiner apologetically admits to being unable to locate the appropriate disclosure and therefore withdraws the rejection.

6.0

The examiner agrees with the argument that none of the references specifically disclose a requirement that the doll wet the diaper and require subsequent removal of the diaper.

7.1

While the examiner realizes that the DeFino et. al. reference teaches an unrelated aparatus, the citation thereof was intended to show that alarms which increase in intensity with duration are well known. Wether an alarm of this type is used on an automobile, a house or a toy is irrelevant.

7.2

The response is as noted in **3.2**, **5.2**, and **7.1** above.

Claim Rejections - 35 USC § 112

1. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 69 recites the broad recitation "between a minimum of 1 hour and a maximum of 6 hours", and the claim also recites "between a minimum of 2 hours and a maximum of 4 hours" which is the narrower statement of the range/limitation.

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 47, 50, 52, 208 and 270 are rejected under 35 U.S.C. 102(b) as being anticipated by Kardon. Kardon teaches a wetting doll with electrical sounding alarm in the form of a baby which includes an absorbant diaper 18 and a sensor element 19. When water leaves discharge opening 17, it begins to soak the absorbant diaper 18 which eventually actuates sensor 19 and electronic sound generating circuit 40. Upon actuation of circuit 40, an audible cry is generated to indicate that the doll's diaper is wet and needs changing. This audible cry will continue until the diaper is removed from the doll.

3. Claims 209, 254-256 and 259-260 are rejected under 35 U.S.C. 102(b) as being anticipated by Jurmain et. al. Jurmain et. al. (5443388) teaches an Infant Simulation System for Pregnancy Deterrence and Child Care Training which comprises a doll having the shape and weight of an young baby and an electronic system to generate sounds simulating a baby crying. Each of these crying simulation periods begins on a selected but somewhat random schedule and lasts for a selected but somewhat random length of time. There is also included a means for recording the time from the beginning of a crying simulation period and the initiation of a response by the care taker. Also, an identification system is provided in the form of a key 14 worn on a nonremovable bracelet 16 to prevent the assigned care taker from having someone else care for the doll. This key 14 additionally serves to arrest the cry signal when inserted into keyhole 15.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 48-49, 53, 58, 60-61, 210-212, 215-217, 219, 221-222, and 268 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jurmain et. al. in view of Kardon. Jurmain et. al. (5443388) teaches an Infant Simulation System for Pregnancy Deterrence and Child Care Training which comprises a doll having the shape and weight of an young baby and an electronic system to generate sounds simulating a baby crying. Each of these crying simulation periods begins on a selected but somewhat random schedule and lasts for a selected but somewhat random length of time. There is also included a means for recording the time from the beginning of a crying simulation period and the initiation of a response by the care taker. Also, an identification system is provided in the form of a key worn on a nonremovable bracelet is availible to prevent the assigned care taker from having someone else care for the doll. Kardon teaches a Wetting Doll with Electrical Sounding Alarm as described above in ***claim rejections - 35 usc § 102***. It would be obvious to one skilled in the art at the time the invention was made to apply the wet-diaper detecting system as taught by Kardon onto the doll of Jurmain et. al. so as to have a more realistic baby simulating apparatus in that it has a actual specific real-world demand (diaper change).

4. Claims 54-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jurmain et. al. and Kardon as applied to claims 48-49, 53, 58, 60-61, 210-212, 215-217, 219, 221-222 and

268 above and further in view of the following: Jurmain et. al. already teaches that the duration of the care-taker response time is preferably recorded by the electronic circuitry of the doll, wether it is the sum total of all durations or each of the durations separately that is recorded is considered obvious design choice.

5. Claims 56-57, 218, 236-237, 240-246, 248 and 253 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jurmain et. al. and Kardon as applied to claims 54-55 above and further in view of DeFino. DeFino teaches a car alarm which increases in intensity with duration. While car alarms and simulating dolls are not normally considered to be analogous art, DeFino is being used to show that the idea of having the intensity of any kind of alarm or cry for help increase with its duration is well known and therefore not novel. The type of device this technique is used in is irrelevant. Finally, having two stages of intensities as opposed to any other number is an obvious choice of design.

6. Claims 59, 220, 225-227, 247, and 251-252 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kardon and Jurmain et. al. as applied to claims 48-49, 53, 58, 60-61, 211-212, 215-217, 219, 221, and 268 above, and further in view of the Nasco International Inc. Ready or Not Tot information brochure. Kardon and Jurmain et. al. teach all of the limitations of the invention claimed except that there is a means for indicating that the energy source has been accessed. Nasco teaches a doll designed to educate potential parents about the resposibilities of taking care of a baby which comprises a doll having the appearance and weight of an actual baby and circuitry for generating demand periods during which the doll emits a simulated cry until it

has been satisfied by the appropriate care-taking methods. This doll also includes a security system which causes a light to flash until turned off by the instructor if the battery is removed. Finally, page 8 of this brochure shows 3 different programs differing in frequency and duration of demands which the doll can be set to. It would be obvious to one skilled in the art at the time the invention was made to apply the teaching of a power source security system as taught by Nasco onto the doll of Jermain et. al. to prevent a care-taker from cheating and arresting the demand signal by removal of the battery. It would also be obvious to apply the idea of having different programs to which to set the doll so that the demands of the doll do not become predictable or to provide additional realism.

7. Claims 62-69, 223-224 and 249-250 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jurmain et. al. in view of Kardon and Nasco International Inc. Ready or Not Tot information brochure as applied to claims 59, 220, 225-227, 247 and 251-252 above, and further in view of the following: wether the time interval between the generation of a sequential soiled-diaper signal is a random variable or a predetermined value is an obvious choice of design. Additionally, it would be obvious to one skilled in the art to set the time between diaper-soilings within 20 minutes to 6 hours, a range which represents possible actual intervals of diaper-wetting by a real baby.

Allowable Subject Matter

1. The indication of the allowability of claims 70 and 228-235 in the previous office action was an error. Claims 70, 228-235 and 269 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

2. Claims 261-267 are allowable as indicated in the previous office action.

Conclusion

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael B. Priddy whose telephone number is (703) 308-8620. The examiner can normally be reached on Mon.-Thurs. from 7:30 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Robert Hafer, can be reached on (703) 308-1148. The fax phone number for this Group is (703) 308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

Michael B. Priddy

11/17/98

Robert A. Hafer
Supervisory Patent Examiner
Group 3700